

## EXPLANATION OF MEMPHIS CHARTER AMENDMENT

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The referendum on the ballot proposes a technical correction to three MLGW charter provisions that were made a part of the City Charter in 1939. In 2015 the Chancery Court held these provisions were repealed because they conflicted with state law requirements for “calculation” of maximum MLGW PILOTs.

As a public utility MLGW is exempt from taxation, but by charter provisions MLGW has made payments in lieu of taxes (“PILOTs”) only to the City since 1939. The City voluntarily shared these payments with the County and other cities in the County. In 1987 state law was changed to put a cap on the maximum PILOT that MLGW can pay in any year and required distribution of this maximum amount among all taxing entities in the county—in this case, Memphis, Shelby County and each of the six incorporated cities in the county.

The maximum amount of PILOTs cannot be changed by the City. However, state law allows the charter of any city that owns a utility, like MLGW, to determine how the maximum PILOT may be distributed or allocated among all taxing jurisdictions in the County. If a city does not have a distribution provision in its charter, state law gives the county 22 1/2% of the maximum PILOT—even if only 14% of utilities assets are in the county, as in this case.

The Charter change will allow the City to receive an allocation of the PILOT based on the actual distribution of assets, as allowed under state law. Substantially all of MLGW assets, customers and operations are within the City, which as the owning municipality provides significant urban level services that benefit MLGW and its ratepayers. As an example, MLGW uses the City’s 6800 lane miles of streets to deliver its services to ratepayers throughout the county, but not without a significant cost to the City’s taxpayers. Without the allocation of the Maximum PILOTs that existed before the 2015 ruling, the City’s taxpayers would bear a greater tax burden for the same level of services relevant to MLGW’s right-of-way use, including repairing and increased paving of the City’s streets, fixing potholes, and other public services that allow MLGW to keep its rates low. The City provides these essential services without any contribution from the County.

The Charter Amendment would have no impact on MLGW ratepayers. It would allow the City to retain the revenue that it received prior to the 2015 ruling.